



Pleasant Valley Community Schools - Section 504 Manual

A Guide to Understanding the
Rehabilitation Act of 1973 as it
Applies to Students

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MISSION STATEMENT

The mission of the Pleasant Valley Community School District as a premier innovative district in the Midwest is to prepare students to succeed in a diverse, global society by providing superior quality opportunities in a safe environment for each student to become a life-long learner and by continuously improving and customizing the educational experience.

* * *

It is our goal to provide children a K-12 education experience of unsurpassed quality. The foundation to our current and future success is comprised of ...

...students who enjoy and value their education -- 90% of any graduating class go on to some form of post-secondary education, with three fourths of those attending four year colleges and universities. Equally impressive numbers participate and excel in our outstanding fine arts and athletic programs

...involved, caring parents -- each school has a highly active parent organization and a variety of energetic booster clubs to support the programs and activities at the secondary level. Our parents are well-educated and hold high standards for their children and the school district.

...an accomplished faculty -- the Pleasant Valley faculty is individually and collectively recognized for educational excellence and a shared commitment to nurturing and challenging students to reach their full potential.

...excellent programming and educational resources -- a vibrant curriculum, rich collections of books, varied learning resources, and air-conditioned facilities provide extensive support for academic enrichment and growth.

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INTRODUCTION

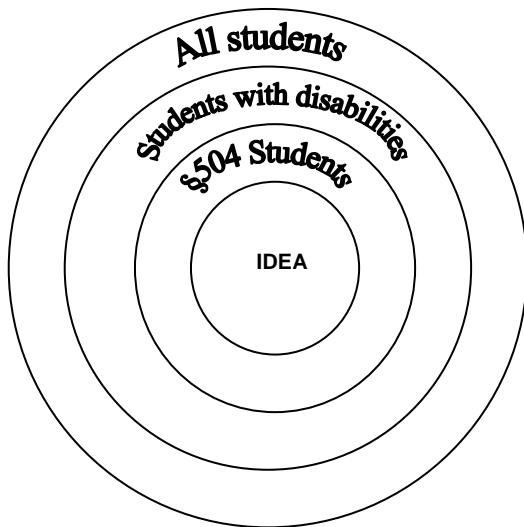
Section 504 of the Rehabilitation Act of 1973 provides that "No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance . . ." 29 U.S.C. § 794(a) (1988) [*hereinafter*, § 504]. School districts receiving federal funds are required to provide an education to students with disabilities. The school district not only must provide appropriate educational programming but also must address accessibility issues, including physical accessibility to school district facilities. While § 504 also applies to employees and visitors to school district facilities, this manual focuses solely on students.

A student with a disability is defined as one who:

- has a physical or mental impairment which substantially limits one or more major life activities;
- has a record of such an impairment; or
- is regarded as having such an impairment.

34 C.F.R. Pt. 104.3(j).

Students who qualify for special education services under the Individuals with Disabilities Education Act (IDEA) are considered students with disabilities under § 504. 20 U.S.C. §§ 1400 et seq. (1994). However, § 504 covers an even broader class of students -- students who do not qualify for special education services. Common examples of students who do not qualify for special education services but who may qualify under § 504 are those with asthma, depression or juvenile arthritis. Although such students may need some accommodations in their educational programs, i.e., adjustment of physical education requirements, they do not need special education instructional services.



The U.S. Department of Education Office for Civil Rights (OCR) is responsible for overseeing and ensuring school district compliance with § 504. The U.S. Department of Education Office for Special Education Programs (OSEP) is responsible for overseeing and ensuring compliance with the IDEA.

There has been much confusion over the years regarding the relationship between § 504 and special education laws and regulations. It must be emphasized that § 504 falls within the general education program. Unlike the IDEA, § 504 does not mandate special programs. Section 504 is an anti-discrimination law and requires school districts to provide education programs to students with disabilities as adequately

as the needs of students without disabilities are met. 34 C.F.R. Pt. 104.33(b). A student who is found to have a disability under § 504 is generally served by the employees and resources of the general education program. The exception is a student who has been determined to have a § 504 qualifying disability and also needs services under the IDEA. Such a student could receive special education services under the IDEA, and any additional accommodations required under § 504 could be included in the Individualized Education Program (IEP). The IEP is the method by which individualized services are provided to students eligible under the IDEA. OCR has determined compliance with the IDEA meets the requirements of § 504.

The school district must evaluate a student if there is reason to believe, because of a qualifying disability, a student needs special accommodations or services in order to participate in the school program. If it is determined that a student has a qualifying disability under § 504, the school district must develop and implement the delivery of needed services and/or accommodations.

Free Appropriate Public Education

A school district has the responsibility to provide a free appropriate public education to students with disabilities under § 504. Unlike § 504 requirements for physical accessibility or employment, OCR has determined there is no financial standard of undue hardship for education, nor is the student's accommodation qualified by the term "reasonable." Students eligible for § 504 services are to receive accommodations or related services similar to those students eligible for special education services regardless of the cost. Related services are those services which assist students with disabilities to benefit from the education program and can include counseling services, transportation or health services.

Section 504 requires a written plan describing placement and services. Placement decisions must be based on information drawn from a variety of sources and all information must be documented as considered. Although a formal IEP, as required by the IDEA, is not required, placement decisions must be made by a group of persons knowledgeable about the student and the disability, about the meaning of the evaluation data and about placement options. The educational accommodation plan should be signed by all members of the student's team. In summary:

- accommodations must be individualized;
- modifications can be made to regular programs, or the provision of different programs may be necessary; and,
- accommodations should be designed to meet the individual educational needs of students with disabilities as adequately as the needs of other students are met.

34 C.F.R. Pt. 104.33(b).

School districts must establish and implement procedures regarding the identification, evaluation and educational placement of students with disabilities. School districts must incorporate a system of procedural safeguards that include notice, an opportunity for the parents or guardian to examine relevant records, an impartial hearing, an opportunity for participation by the student's parents or guardian, representation by counsel and a review procedure.

To be in compliance with § 504, school districts must:

- adopt a nondiscrimination policy, develop a grievance procedure and appoint a compliance officer who can be the same individual used as a compliance officer for issues such as Title IX, Title VII, etc.; *See Appendices A (Code 102, 102.R1) B, and C;*
- provide notice of nondiscrimination in admission or access to programs or activities. Notice must be included in a student/parent handbook and may be included in other school district publications such as a school newsletter; *See Appendix A; 34 C.F.R. Pt. 104.8(b);*
- give a second notice to parents of students with disabilities outlining their rights under the policy; *See Appendix A (102.E4) and D;*
- annually notify students with disabilities and their parents or guardians of the school district's responsibilities under § 504, including:
 - notice of their rights;
 - an opportunity to review relevant records; and,

-- an impartial hearing. Parents or guardians must be notified of their right to request a hearing regarding the identification, evaluation or educational placement of students with disabilities; *See Appendix A and L;*

- identify and evaluate students with disabilities or suspected disabilities;
- implement an appropriate education program for students with disabilities; and,
- have a self-evaluation and transition plan on file.

Definition of Disability

A student with a disability means:

Any student who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment.

34 C.F.R. Pt. 104.3(j).

The phrase "physical or mental impairment" means:

Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine or any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities. *Id.*

Physical or mental impairments may also include diagnosed depression, diagnosed chronic fatigue syndrome or diagnosed eating disorders. Common examples in schools may be more hidden disabilities such as migraines. Educators should recognize that not all disabilities will be visible to the naked eye and those "invisible" disabilities are entitled to accommodations, too.

"Major life activities" means:

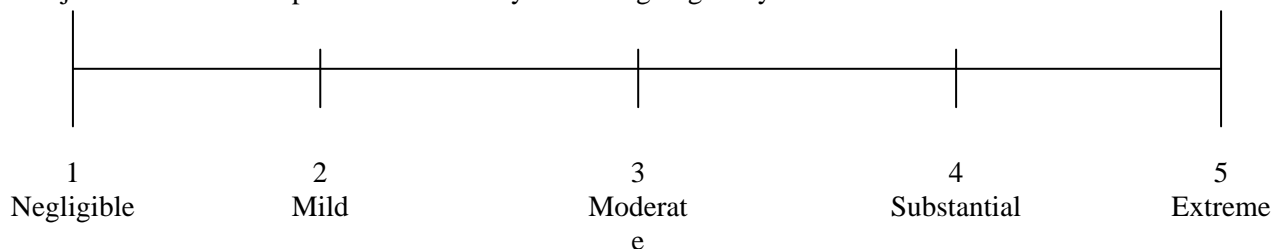
Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. *Id.*

For purposes of accommodations to the educational program, only the first definition of disability is applicable, "has a physical or mental impairment which substantially limits one or more major life activities." The rest of the definition "has a record of such an impairment or is regarded as having such an impairment" is not used to determine eligibility for § 504 accommodations.

It is important to remember there are two factors used to identify a § 504 eligible disability -- "physical or mental impairment" and "which substantially limits one or more major life activities." For example, a student with limited English proficiency may have a communication problem, but it is not a physical or mental impairment. Therefore, limited English proficiency is not a disability qualifying for § 504 accommodations and services. That does not mean the student does not qualify for special services, but, rather, the student does not qualify under § 504 and does not need a written accommodation plan. Qualifying disabilities under § 504 are generally permanent disabilities. Normal pregnancies, broken limbs, colds, etc. are not generally considered disabilities.

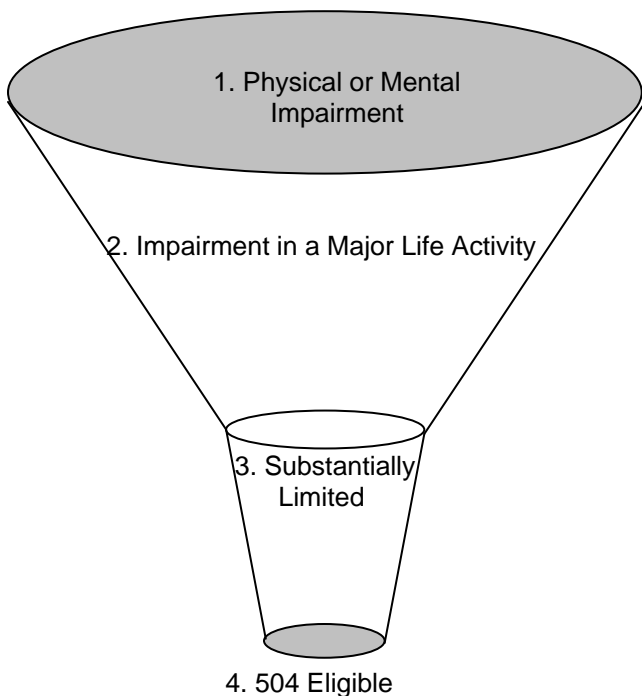
Understanding the phrase, "substantially limited" is at the heart of the eligibility process. It can be very subjective. Luckily, educators know how to identify specific criteria or rubrics to assist them, in evaluating equitably.

Dr. Perry Zirkel of Lehigh University suggested that conceptualizing the continuum of “limitation” on a 5 point scale could be used by the 504 team in determining 504 eligibility. In this matrix, a 5 point scale has been aligned with major life activities to provide consistency in making eligibility decisions.



§ 504 Funnel for Determining Eligibility

The Americans with Disabilities Act (ADA) provides us with some additional assistance in interpreting “substantially limits.” In the ADA, the disability must be substantial when compared to the average student in the general population or that the student is significantly restricted as to the condition, manner or duration under which a particular major life activity is performed as compared to the average student of approximately the same age.



1. Broadest Test. Does the student have a physical or mental disability? No – not eligible.
2. Does the disability cause impairment in a major life activity? No – not eligible.
Examples:
Breathing
Walking
Learning
Socializing
Eating
etc.
3. Is the impairment
 - a) negligible? – not eligible
 - b) mild? – not eligible
 - c) moderate? – not eligible
 - d) substantial? – ELIGIBLE
 - e) extreme? – ELIGIBLE
4. Pass broadest to narrowest test – then 504 eligible.

Identification of Students Eligible Under § 504

Students who qualify for services under § 504 may not be as easy to identify as those who qualify for special education services. Many students go through school with a disability, yet never need an accommodation. School districts identify students with § 504 qualifying disabilities the same way they identify students needing special education services -- observation or notification. The parents may, and should be encouraged to, inform the school

district when their child has a disability. In many cases, a student's disability will be disclosed in the student's health history.

It is not uncommon for a school district to receive a doctor's letter stating a student has a disability and needs certain accommodations. The doctor's letter may even state what accommodations should be made. While the school district should consider the doctor's suggestions, it is important to remember they are just that - suggestions. While it is the doctor's responsibility to give a medical diagnosis, it is the school district's responsibility to evaluate the student's needs using multiple sources and to develop and implement any necessary accommodations for the student. The school district is better equipped to determine what accommodations should be made since they have, or have access to, appropriate professional expertise needed to write accommodation plans.

Evaluation

If there is reason to believe, because of a qualifying disability, a student needs accommodations or services, the school district must make an eligibility determination and develop and implement an accommodation plan for the delivery of any needed services. Requirements for the § 504 evaluation and placement process are determined by the type of disability believed to be present and the type of services the student may need. The evaluation must be sufficient to accurately assess the nature and extent of the disability, its effect on major life activities and recommended services. *See Appendix F.*

The determination of what services are needed must be made by a group of persons knowledgeable about the student and the disability, the meaning of the evaluation data and placement options [*hereinafter, the student's team*]. Often, the student's team will be the building level problem-solving team. 34 C.F.R. Pt. 104.35(c). The student's team should review the nature of the disability, how it affects the student's education, whether special services or accommodations are needed and, if so, what services are to be provided. The decisions about § 504 eligibility and services must be documented in the student's file and reviewed periodically.

An appropriate education for a student eligible under § 504 may consist of education in regular classes with accommodations being made and/or the use of supplementary services or programs designed to meet the unique needs of a particular student. Adjustments in academic requirements and expectations may be necessary to accommodate the needs of an individual student to enable the student to participate in the general education program. *See Appendices G-J.*

The problem that precipitates a § 504 evaluation should be chronic, present across several settings, but not necessarily all settings, and limit the student's learning. It is critical to realize that the term "learning" should be interpreted very broadly. A student whose progress in school is hindered by a variety of conditions, including frequent absences or frequent disciplinary referrals, may be a student who is eligible for, and could benefit from, accommodations under § 504. A student does not need to have a specific disability diagnosis to be eligible for evaluation or placement under § 504.

The student who is staffed out of special education might be referred to the building level problem-solving team in order to determine and meet the student's needs within the general education setting. In that case, the evaluation information would probably be available from the special education records, the parents and the student's general and special education teachers. Thus, the § 504 accommodation plan could be written from information already known about the student.

Multiple Sources of Information

In assessing whether a student has a § 504 qualifying disability, it is important to gather information from various sources in the student's environment and from the student. By gathering information from multiple sources, the extent of the difficulty and needs of the student can best be understood. Relevant information could include:

- information gathered from school records, interviews, medical records, observations, rating scales, permanent products the student has produced and curriculum-based measurement probes;
- interviews with the student's teacher(s), parents and medical professionals who have evaluated the student;

- educational records and permanent products produced by the student such as standardized test scores, attendance records, disciplinary records, hearing or vision screening results, samples of a student's daily work or the teacher's grade book; and
- direct observations of the student. For example, information might include frequency counts of social interactions by teachers in classrooms, the lunchroom and at recess.

Often the different information sources are consistent; however, that is not always the case. When different perspectives are found, trying to understand why the disagreements exist can yield crucial information for the accommodation plan. If one teacher's class functions in a manner that promotes success for the student, the structure, organization and expectations in that room will contain valuable information on what factors facilitate success for the student being referred.

Multiple Settings

Understanding how a student functions in different settings can be important in formulating ideas for accommodations and services. Critical to the determination is that a condition be present across several settings.

It is important to keep in mind that some students who have physical or mental disabilities that limit their ability to participate in the education program are entitled to rights under § 504 even though they may not fall into specific IDEA categories and may not be covered by the IDEA.

In summary, the usual steps of a § 504 evaluation are as follows:

- A teacher, other school faculty member, parents, the student or a "helping" professional outside the school identifies a concern and brings it to the attention of the school's building level problem-solving team.
- The problem-solving team's chair reviews the concern and follows the established problem-solving team's procedures unless circumstances dictate adjustment of the procedures. The chair also schedules the problem-solving team meeting and invites any appropriate ad hoc member, as indicated by the concern. It is a good practice to involve the parents or guardian in the meeting as they can meet one of the required components – knowledgeable about the student and disability. *See Appendix E.*
- The problem-solving team meets to discuss the concern. The results of that meeting depend on the initial concern. The team meeting needs to address whether the student's learning is substantially limited.
 - In the case of a medical concern where the parents, teachers and nurse feel that learning is not affected in any manner, the medical information is noted in the student's medical file. A health services plan is written, but no accommodation plan needs to be written.
 - In the case of a medical concern where the parents, teachers and nurse feel that learning is affected in some manner, the problem-solving team, in conjunction with the § 504 coordinator, writes the accommodation plan if the team has the needed information about the student.
 - In some cases a concern will be brought to the problem-solving team and they will need to gather more information for an evaluation. Parents need to be notified before the evaluation is conducted. Parental consent is not specifically mentioned in § 504. However, OCR has stated that consent should be obtained for an initial evaluation and placement. Therefore, obtaining consent is considered best practice. The problem-solving team should set a date to reconvene within 30 school days and gather the necessary information. The evaluation should be tailored to assess the specific areas of concern and the student's educational needs.
 - A specific disability diagnosis is not required under § 504. If the building level problem-solving team documents that a student's learning is being substantially limited by a chronic problem that is present across several settings, an accommodation plan can be written to meet the needs of the student without a specific disability diagnosis ever being made by educators or medical personnel.
- The accommodation plan must be reviewed every three years and earlier if warranted. While it is the ultimate responsibility of the school district § 504 coordinator to initiate the review, classroom teachers and members of the building level problem-solving team should also be responsible for initiating the review.
- If the accommodation plan is not successful, the concerns should be recycled through the building level problem-solving team and/or consider a referral to special education.

Accommodations

After the accommodation plan has been written, it is best that a member of the student's team discuss the plan with the school employees who will have contact with or work with the student. This includes the classroom teacher, specialized teachers (music, p.e., etc.), bus driver, coach, activity sponsor, nurse, etc. The employees need to be informed of their responsibility to ensure implementation of the accommodation plan. Failure to implement all, or part, of the plan not only could lead to employee discipline, up to and including discharge, but also could lead to personal liability. *See Appendix K.*

While § 504 does not specifically mention parental approval of the accommodation plan and its implementation, obtaining such consent is preferable. Meetings and communication with parents should always be well documented. In the majority of cases, parents will be supportive. In those cases, however, where parents are not supportive (for example, failure to give the child prescribed medication at the appropriate times), the building level problem-solving team should meet with the parents to address their concerns. Other solutions may need to be developed and, in the example above, the prescribing doctor can work with the school district.

The issues of grades and transcripts often arise in conjunction with accommodations. The Iowa Department of Education issued “Grades, Diplomas & Transcripts for Students with Disabilities”, which addresses these issues. *See Appendix D.*

Federal law requires the participation of all students with disabilities in district-wide assessments. The § 504 accommodations team must specify on the accommodation plan, if the eligible student will need accommodations when taking district-wide assessments.

It is useful to keep in mind the definition of accommodations as they apply to assessment. Accommodations, as defined by *Thurlow et al.* (1998) are “changes in testing materials or procedures that enable students with disabilities to participate in an assessment in a way that allows abilities to be tested rather than disabilities” (pp. 27-28). The intent of testing accommodations is to “level the playing field” for students with disabilities. The intent is not to give students with disabilities an unfair advantage. Team members may wish to consider five categories of accommodations described by *Thurlow*: setting, timing, scheduling, presentation and response. Setting accommodations may include use of study carrels, small groups and special seating. Scheduling accommodations include allowing extended time, breaks away from the testing area. Response accommodations may include, for example, the use of a scribe or recording responses on the test booklet.

The decision to provide special testing circumstances should not be understood as an opportunity to unfairly benefit a few students; rather, accommodated assessments are intended to “level the playing field” so students with disabilities have a fair opportunity to demonstrate their knowledge and skills without barriers. As such, students should be provided the same accommodations they use during classroom instruction.

Discipline

The procedures for disciplining students receiving special education services or eligible for § 504 accommodations are somewhat different than those for students in the general education program. The difference is because students with disabilities cannot be disciplined if their behavior, which led to the disability, is caused by their disability. Students who are eligible for § 504 accommodations and services, as well as services under the IDEA, are disciplined consistent with the IDEA.

The discipline of students with disabilities does not generally become an issue until the student has been or will be suspended in excess of 10 days per school year. The reason for the 10-day benchmark is that the exclusion of students receiving special education services for greater than 10 days constitutes a unilateral change in placement in violation of federal law.

When a student receiving § 504 accommodations has violated a school policy or rule, it should be determined whether the student’s disability caused the misconduct. This process is more commonly called a manifestation determination. This determination should be made by a group of individuals knowledgeable about the student and the disability. In most cases, the group will be the student’s § 504 team. The role of the team is to determine if there is a direct and substantial relationship between the misconduct and the disability.

If it is determined there is no direct and substantial relationship between the misconduct and the disability, the school district can generally discipline the student receiving § 504 accommodations as it would a general education student. For students receiving § 504 accommodations since it is not an educational entitlement, there is no duty to continue the student's education.

If the misconduct is related to the disability, the team must review the student's placement to determine if it is still appropriate. During the period of the manifestation determination and after it has been determined that the misconduct was related to the disability, the student "stays put" or remains in the same placement as when the misconduct occurred. Only with parental approval or a court order can the school district change the student's placement pending a review. School districts concerned the student poses a threat to himself, herself or to others can ask a hearing officer to remove the student. The same analysis applies if the discipline is under the general student behavior policy or the good conduct rule for extracurricular activities.

The law makes one exception to the disciplinary treatment of students receiving § 504 accommodations. A student receiving § 504 accommodations who violates drug or alcohol rules can be disciplined as if the student did not have a disability. Therefore, the student can be disciplined the same as a general education student for the same infraction without first holding a manifestation conference.

Extracurricular Activities

Section 504 is not a program mandate but, rather, an anti-discrimination law. Regarding extracurricular activities the law states, "a recipient shall ensure that handicapped persons participate with non-handicapped persons in such activities and services to the maximum extent appropriate to the needs of the handicapped person in question." 34 C.F.R. Pt. 104.34(b). The law does not require that students with disabilities be able to fully participate in all activities. Rather, students with disabilities must be afforded a comparable opportunity to participate in activities. 34 C.F.R. Pt. 104.37(a).

In instances where the student has a physical disability, a school district may want a doctor's note stating the student is able to participate in the activity. A doctor's permission should not be requested arbitrarily, but only when the school district has a legitimate concern about the student's health and well-being.

The law requires not only that the student be eligible to participate in activities, but also that activities be accessible to the student. For example, a wheelchair bound student who wants to participate in choir needs to have a means of getting to the stage. The school district cannot exclude the student from participation because the school facilities are inaccessible.

Although students with disabilities have a right to participate in extra-curricular activities, in the activities where participation is based upon competitive criteria, there is no requirement that the criteria be adjusted significantly nor the activity be fundamentally altered. The school district should make the determination of whether a student is eligible after considering auxiliary aids or services. For example, if students must meet non-arbitrary physical requirements to participate in athletics, those requirements do not have to be waived or adjusted. Those requirements, however, cannot be arbitrary and must have a relationship to the activity. If a student with a

disability does not meet the participation requirements, school officials should look for alternative methods for the student to participate. For example, while a student with cerebral palsy may not be eligible to play basketball, he could be the team statistician.

Student Records

The confidentiality of student records is addressed in both state and federal law, with the bulk of the law and interpretive case law based upon the federal law. The Family Educational Rights and Privacy Act (FERPA) addresses the records of all students, both general education students and students receiving special education services. 20 U.S.C. § 1232g (1994), 34 C.F.R. § 99. Iowa law states that student records are confidential records. Iowa Code § 22.7(1). In analyzing the confidentiality of student records, FERPA is usually relied upon.

The federal law on access to student records is very detailed and must be strictly followed. Confidential student records are those which contain personally identifiable information. 34 C.F.R. § 99.3. Student records containing personally identifiable information on a student receiving special education services must be kept confidential at the collection, storage, disclosure and destruction stages. 34 C.F.R. § 300.561 (1996). Personally identifiable information includes, but is not limited to:

- the student's name;
- the name of the student's parent or other family member;
- the address of the student or student's family;
- a personal identifier, such as a social security number or other student number;
- a list of personal characteristics that would make the student's identity easily traceable; and
- other information that would make the student's identity traceable.

34 C.F.R. § 99.3.

Only the parents of the student, an eligible student and certain listed public officials may view student records without a court order or parental or eligible student's permission. An eligible student is a student who has reached age 18 or is attending an institution of postsecondary education. *Id.* For purposes of FERPA, enrollment in a postsecondary institution as a high school student does not qualify a student as an eligible student. Parents of an eligible student may access the student's records only with the written permission of the eligible student unless the eligible student is a dependent for tax purposes. Parents may be denied access to a student's records if the school district has a court order stating that the parents may not access the student records or the parental rights have been terminated. 34 C.F.R. § 99.4.

Parents and eligible students must have access to the student's records during the regular business hours of the school district. 34 C.F.R. § 99.10. However, if the record is not immediately available, the school district must provide it within 45 days of the request. *Id.* 34 C.F.R. § 99.11. Fees for copies of the records must be waived if it would prevent the parents or student from accessing the records. *Id.* A fee may not be charged to search or retrieve information from student records. *Id.*

If the parents or an eligible student believe information in the student records is inaccurate, misleading or violates the privacy rights of the student, the parents or an eligible student may request an amendment to the record. 34 C.F.R. § 99.20. If the school district determines an amendment should be made, the amendment must be made and the parents or the eligible student informed of the decision in writing.

If the school district refuses to amend the student record, the parents or the eligible student may ask for a hearing before the school district. The hearing is generally before employees, not the board. 34 C.F.R. § 99.21. If the request to amend the student record is further denied, the parents or the eligible student may place an explanatory letter in the student record commenting on the school district's decision and describing their disagreement. *Id.* Amendments and the explanatory letter become part of the student's record and must be maintained and disclosed like other student records. *Id.*

Student records may be disclosed in limited circumstances without parental or an eligible student's written permission if the student record is not disclosed to a third party. 34 C.F.R. § 99.31. This disclosure may be made:

- to officials in the school district whom the school district has determined have a legitimate educational interest;
- to officials of another school district in which the student wishes to enroll, provided the sending school district notifies the parents the student records are being sent and the parents have an opportunity to receive a copy of the records and challenge their contents;
- to the U.S. Comptroller General, the U.S. Secretary of Education, the U.S. Attorney General or state and local educational authorities;
- in connection with financial aid for which the student has applied or which the student has received if the information is necessary to receive the financial aid;
- to organizations conducting educational studies and the study does not release personally identifiable information;
- consistent with an interagency agreement between the school district and juvenile justice agencies;
- to accrediting organizations;
- to parents of a dependent student as defined in the Internal Revenue Code;
- to comply with a court order or judicially issued subpoena (a reasonable effort must be made to contact the parents or an eligible student prior to release);
- in connection with a health or safety emergency; or,
- as directory information.

Id.

The superintendent must also keep a list of individuals, agencies and organizations which have requested or obtained access to a student's records, the date access was given or requested and their legitimate educational interest or purpose for which they were authorized to view the records. 34 C.F.R. § 99.32. This list may be accessed by the parents, the eligible student and the custodian of student records.

Permanent student records, including a student's name, address, phone number, grades, attendance record, classes attended, grade level completed and year completed should be maintained indefinitely electronically with back-up or in a fire-safe vault. 281 I.A.C. 12.3(6).

The school district must annually inform employees about parents' and eligible students' rights about student records. Employees should also be informed about the procedures for carrying out this law. The school district must annually notify parents and eligible students of their rights to access student records under federal law. 34 C.F.R. § 99.7. The notice must be provided in a parents' or eligible student's native language. *Id.*

A commonly asked question is whether non-custodial parents have a right to view a student's records. All parents have a right to view a student's records unless that parent's rights have been terminated by the court or a court order is on file denying them the right to view the records. 34 C.F.R. § 99.4.

Procedural Safeguards

In complying with § 504, it is important to remember that parents and students have specific rights, and the school district must be careful not to deprive parents or students of those rights or infringe upon those rights.

- The parents have a right to be notified in writing of any decisions made by the school district about the identification, evaluation or educational placement of students pursuant to § 504. While parental consent is not mentioned in § 504, it is preferable to seek parental support for the evaluation of the student as well as for implementation of the accommodation plan.
- The parents have a right to examine, copy and request amendments to the student's educational records.
- The parents have a right to an impartial hearing about school district decisions. The impartial hearing officer needs to be an individual outside the school district. It may be appropriate to use a school administrator or compliance officer from another school or school district. The hearing officer, however, should not be from another school district with which the home school district has a contract to jointly provide services or from the AEA in which the home school district is located. The parents have a right to counsel for the impartial hearing. For more impartial hearing procedures, *see Appendix L*.

- Parents or district personnel may want to consider using the resolution facilitator process before requesting a hearing before a hearing officer. A resolution facilitator assists in resolving differences over any educational services and issues between parents, educators or other involved parties. Participation must be agreed to by all parties. All resolution facilitators are trained in mediation and are neutral objective third parties. The facilitator will preside over a meeting and help all parties seek common ground solutions. If the meeting is successful, the parties will devise and implement a plan acceptable to all. If the parties cannot agree on an appropriate course of action, they may proceed to other processes. The first step in obtaining resolution facilitator services is to obtain a request form or write a letter to the AEA. The facilitator will come from within the AEA or, if requested, from outside the AEA. However, availability of services is strictly at the discretion of the AEA.
- The parents have a right to further review of the impartial hearing officer's decision.

Closure to § 504

When a student no longer needs § 504 accommodations, the student's team should meet to make that determination. The team should document that the student no longer needs the accommodations. The team should also notify the parents, if the parents were not involved. Records of the student's prior accommodations should be kept in the same manner as IDEA records when a student no longer needs special education services.

SCHOOL DISTRICT RESPONSIBILITIES

Responsibilities that a school district must meet to be in compliance with § 504 are:

- adopt a nondiscrimination policy, develop a grievance procedure and appoint a compliance officer who can be the same individual used as a compliance officer for issues such as Title IX, Title VII, etc.; See *Appendices A (Code 102, 102.R1), B, and C*;
- provide notice of nondiscrimination in admission or access to programs or activities. Notice must be included in a student/parent handbook and may be included in other school district publications such as a school newsletter; *See Appendix A; 34 C.F.R. Pt. 104.8(b)*;
- give a second notice to parents of students with disabilities outlining their rights under the policy; See *Appendix A (102.E4) and D*;
- annually notify students with disabilities and their parents or guardians of the school district's responsibilities under § 504, including:
 - notice of their rights,
 - an opportunity to review relevant records, and,
 - an impartial hearing. Parents or guardians must be notified of their right to request a hearing regarding the identification, evaluation or educational placement of students with disabilities; *See Appendix A and L*;
- identify and evaluate students with disabilities or suspected disabilities; See IA Dept of Ed. http://www.iowa.gov/educate/index.php?option=com_content&task=view&id=715&Itemid=592
- implement an appropriate education program for students with disabilities; and,
- have a self-evaluation and transition plan on file.

Failure to provide any of the above items exposes the school district to liability and may generate negative publicity. While § 504 has seemed dormant for years, it is now often raised by advocates for students with disabilities. Careful attention should be paid to compliance with these provisions.

In summary, school districts have a responsibility to ensure that the provisions of § 504 are being met. It is important to remember that § 504 is unique and different from the IDEA. It is not a program mandate, but, rather, an antidiscrimination law. School districts need to provide students with qualifying disabilities a comparable opportunity, as compared to students without disabilities, to participate in school district activities as well as receive school district benefits and services.

APPENDICES

APPENDIX A

EQUAL EDUCATIONAL OPPORTUNITY/ NOTICE OF NONDISCRIMINATION

Policy Title_ Equal Educational Opportunity/Non-discrimination Code No. 103

It is the policy of the Pleasant Valley Community School District not to illegally discriminate on the basis of race, color, national origin, gender, disability, religion, creed, age (for employment), marital status (for programs), sexual orientation, gender identity and socioeconomic status (for programs) in its educational programs and its employment practices. Further, the board affirms the right of all students and staff to be treated with respect and to be protected from intimidation, discrimination, physical harm and harassment.

The board requires all persons, agencies, vendors, contractors and other persons and organizations doing business with or performing services for the school district to subscribe to all applicable federal and state laws, executive orders, rules and regulations pertaining to contract compliance and equal opportunity.

Inquiries concerning the application of federal and state nondiscrimination statutes and the implementing regulations to the district may be referred to the District’s Affirmative Action and Educational Equity Coordinator or to the Director of the Office for Civil Rights, Department of HEW, Washington, D.C.

Date of Adoption:

Legal Reference: (Code of Iowa)

December 16, 1968

216.9; 256.11,.11A; 280.3 (2003).

Reapproved 8-14-78

Amended 6-16-86

281 I.A.C. 12

Reapproved 8-7-89

Reapproved 12-7-92

Reapproved 7-1-96

Reapproved 12-4-00

Revised 8-1-05

Revised 9-10-07

Related Administrative Rules and Regulations:_____

FORM FOR COMPLAINTS OF DISCRIMINATION
OR NON-COMPLIANCE WITH FEDERAL OR STATE REGULATIONS
REQUIRING NON-DISCRIMINATION

I, _____, am filing this complaint of discrimination or non-compliance
because

(Attach additional sheets if necessary)

Describe incident or occurrence as accurately as possible:

(Attach additional sheets if necessary)

Signature _____

Address _____

Phone Number _____

If student, name _____ Grade Level _____

Attendance center _____

DOCUMENTATION OF DISCRIMINATION OR NON-COMPLIANCE INVESTIGATION

Name of Individual Alleging Discrimination or Non-Compliance

Name _____

Complaint Date _____

State the nature of the complaint and the remedy requested.

Indicate compliance officer response or action to above complaint.

Signature of compliance officer _____

SECTION 504 STUDENT AND PARENTAL RIGHTS

The Pleasant Valley Community School District does not discriminate in its educational programs and activities on the basis of a student's disability. It has been determined that your child has a qualifying disability for which accommodations may need to be made to meet his or her individual needs as adequately as the needs of other students. As a parent, you have the right to the following:

- participation of your child in school district programs and activities, including extracurricular programs and activities, to the maximum extent appropriate, free of discrimination based upon the student's disability and at the same level as students without disabilities;
- receipt of free educational services to the extent they are provided students without disabilities;
- receipt of information about your child and your child's educational programs and activities in your native language;
- notice of identification of your child as having a qualifying disability for which accommodations may need to be made and notice prior to evaluation and placement of your child and right to periodically request a re-evaluation of your child;
- inspect and review your child's educational records including a right to copy those records for a reasonable fee; you also have a right to ask the school district to amend your child's educational records if you feel the information in the records is misleading or inaccurate; should the school district refuse to amend the records, you have a right to a hearing and to place an explanatory letter in your child's file explaining why you feel the records are misleading or inaccurate;
- hearing before an impartial hearing officer if you disagree with your child's evaluation or placement; you have a right to counsel at the hearing and have the decision of the impartial hearing officer reviewed.

Inquiries concerning the school district's compliance with the regulations implementing Title VI, Title IX, the Americans with Disabilities Act (ADA), § 504 or Iowa Code § 280.3 should be directed to:

(Title) _____

(Where located) _____ (Telephone No.) _____

who has been designated by the school district to coordinate the school district's efforts to comply with the regulations implementing Title VI, Title IX, the ADA, § 504 and Iowa Code 280.3.

Complaint Procedure for Discrimination or Non-compliance of Federal or State Regulations

Students, parents of students, employees, and applicants for employment in the school district will have the right to file a formal complaint alleging discrimination under federal or state regulations requiring non-discrimination in programs and employment.

Level One - Principal, Immediate Supervisor or Personnel Contact Person (Informal and Optional - may be bypassed by the individual)

Employees with a complaint of discrimination based upon their race, creed, color, gender, sexual orientation, gender identity, national origin, religion, disability, or age are encouraged to first discuss it with their immediate supervisor, with the objective of resolving the matter informally. An applicant for employment with a complaint of discrimination based upon their race, creed, color, sex, sexual orientation, gender identity, national origin, religion, disability, or age are encouraged to first discuss it with the personnel contact person.

A student, and/or a parent of a student, with a complaint of discrimination based upon their race, creed, color, sexual orientation, gender identity, national origin, religion, gender, disability, marital status or socioeconomic status are encouraged to discuss it with the instructor, counselor, supervisor, building administrator, program administrator or personnel contact person directly involved. A student and/or parent of a student who is unable to discuss the concern with the person directly involved is encouraged to contact any of the other school personnel listed.

Level Two - Compliance Officer

If the complaint is not resolved at level one and the individual wishes to pursue the complaint, the individual may formalize it by filing a complaint in writing on a Complaint Form, which may be obtained from the Compliance Officer. The complaint will state the nature of the situation and the remedy requested. The filing of the formal, written complaint at level two must be within 15 working days from the date of the event giving rise to the complaint, or from the date the individual could reasonably become aware of such occurrence. The individual may request that a meeting concerning the complaint be held with the Compliance Officer. A minor student may be accompanied at that meeting by a parent or guardian. The Compliance Officer will investigate the complaint and attempt to resolve it. A written report from the Compliance Officer regarding action taken will be sent to the involved parties within a reasonable time after receipt of the complaint.

Level Three - Superintendent/Administrator

If the complaint is not resolved at level two, the individual may appeal it to level three by presenting a written appeal to the superintendent within five working days after the individual receives the report from the Compliance Officer, the individual may request a meeting with the Superintendent. The superintendent may request a meeting with the individual to discuss the appeal. A decision will be rendered by the superintendent within a reasonable time after the receipt of the written appeal. If, in cases of disability complaint at the elementary and secondary level, the issue is not resolved through the complaint process, rather, the parents have a right to an impartial hearing to resolve the issue.

This procedure in no way denies the right of the individual to file formal complaints with the Iowa Civil Rights Commission, the U.S. Department of Education Office for Civil Rights or Office of Special Education Programs, the Equal Employment Opportunity Commission, or the Iowa Department of Education for mediation or rectification of civil rights complaints, or to seek private counsel for complaints alleging discrimination.

**Complaint Procedure for Discrimination or
Non-compliance of Federal or State Regulations**

Level Four - Appeal to Board

If the individual is not satisfied with the superintendent's decision, the individual can file an appeal with the board within five working days of the decision. It is within the discretion of the board to determine whether it will hear the appeal.

The Compliance Officer is:

Name Mr. Brian Strusz, Assistant Superintendent

Office Address 525 Belmont Road, Bettendorf, IA 52722

Phone Number (563)332-5550

SECTION 504/AMERICANS WITH DISABILITIES ACT (ADA) REQUIREMENT CHECKLIST

The following is a checklist for the purpose of judging compliance with Section 504. Please note, that because the Americans with Disabilities Act contains requirements similar to but more explicit than the requirements of Section 504, some of the items on the checklist will be drawn directly from the ADA regulations.

- _____ The school corporation has on file, a self-evaluation and transition plan which was filed with the Office for Civil Rights. This plan includes information concerning inaccessible facilities and the steps which the school corporation would take in order to make all programs accessible to individuals with disabilities. It also includes an evaluation of school corporation policies and procedure and plans to bring them into compliance with Section 504.
- _____ The school corporation is currently in compliance with its Section 504 self-evaluation and transition plan.
- _____ If the Section 504 self-evaluation and transition plan are not available or if full compliance with these documents has not been achieved, the school corporation is undertaking a self-evaluation and transition plan as required by ADA.
- _____ All aspects of elementary and secondary programming, including extracurriculars, field trips, athletics, etc., are accessible to students with disabilities.
- _____ Each service, program, or activity conducted by the school corporation, when viewed in its entirety, is readily accessible and usable by individuals with disabilities.
- _____ The school corporation maintains in good operating condition those features of each program which makes the program accessible to individuals with disabilities. The school corporation has access to a TDD for the benefit of individuals with speech or hearing disabilities.
- _____ School corporation facilities or portions of such facilities which are not readily accessible to persons with disabilities have appropriate signage directing such individual to facilities which are accessible. School board meetings or other public meetings conducted by the school corporation are held in facilities that are readily accessible to individuals with disabilities, including when necessary, the provision of a sign language interpreter.

SECTION 504 COORDINATOR JOB DESCRIPTION

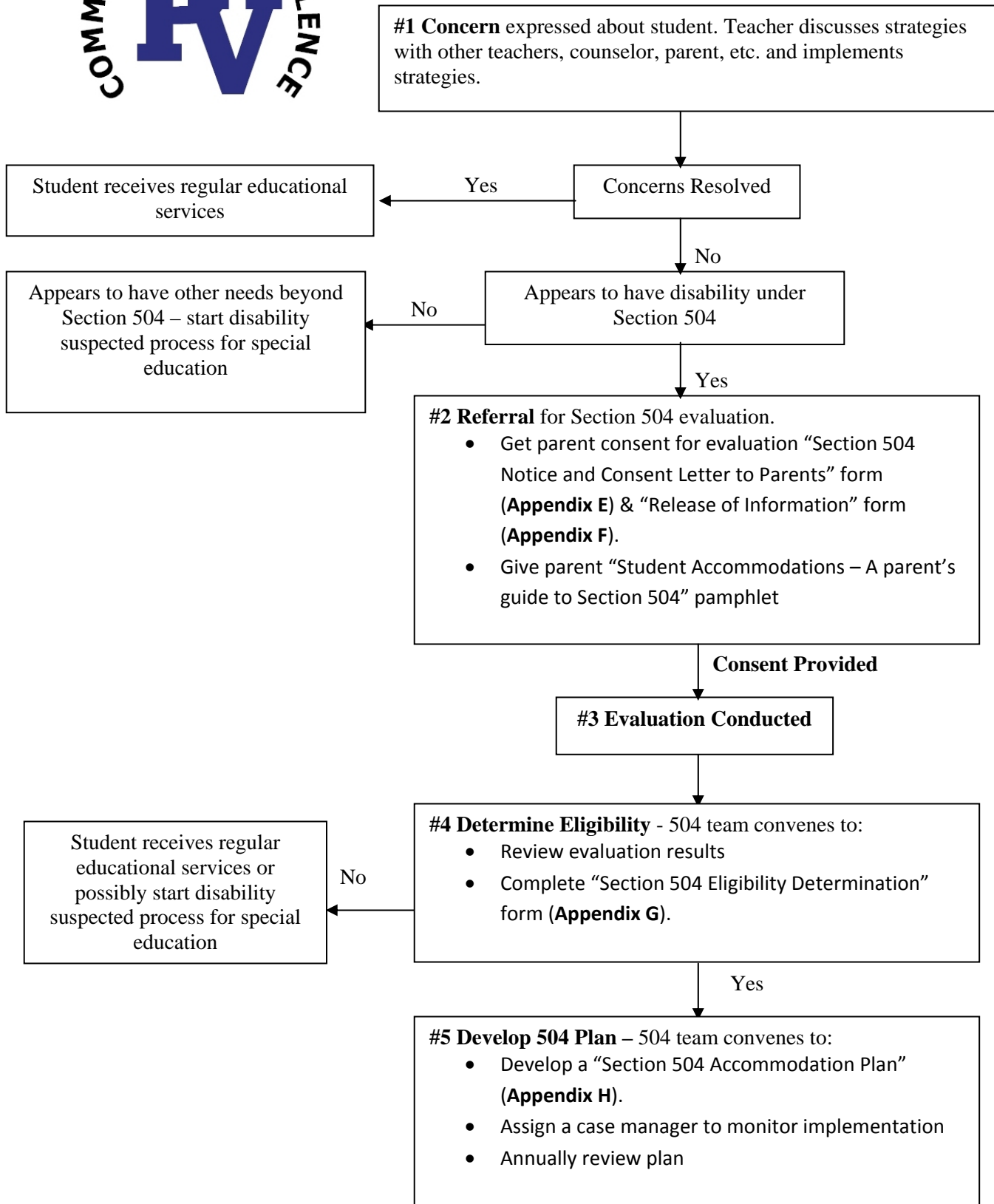
Section 504 Coordinator: Mr. Brian Strusz – Assistant Superintendent of Pleasant Valley SchoolsReports to: Dr. James Spelhaug – Superintendent of Pleasant Valley Schools

Performance Responsibilities:

1. Facilitates the implementation of the school board-approved Compliance Plan and Policy Statement.
2. Develops, continually revises and implements consistent procedures to identify and locate individuals who are disabled according to § 504.
3. Develops and disseminates procedural information about § 504.
4. Coordinates hearings for parent, student, employee or applicant grievances.
5. Coordinates hearings, mediation requests and reviews (appeals) for student/parent issues.
6. Coordinates free access to program activities for students, parents, employees and community.
7. Monitors the collection and storage of all § 504 data (i.e., conference reports, etc.) for future reference.
8. Serves as the school district's liaison to the Office for Civil Rights.
9. Modifies the educational environment for § 504 eligible students including the provision of related services (i.e., transportation, etc.).
10. Continually monitors the reduction of architectural barriers for individuals with disabilities.
11. Facilitates the periodic re-evaluation of § 504 eligible students.
12. Conducts the meetings for eligible students being considered for exclusion or expulsion from school for infractions of school board policy and regulations.
13. Works closely with hospitals and other community agencies to provide follow-up to students placed for substance abuse or other purposes.
14. Serves as a daily resource to the community to explain, publicize and promote compliance with § 504.
15. Facilitates the defining of terms based upon local forms relating to § 504 compliance.
16. Recommends to the district superintendent and school board, policies, positions and needs relative to § 504 compliance.



Section 504 Process Flow Chart



SECTION 504 NOTICE AND CONSENT LETTER TO PARENTS

The Pleasant Valley Community School District does not discriminate in its educational programs and activities on the basis of a student’s disability. We will be convening a team of individuals to determine whether accommodations may need to be made to meet the individual needs of _____ as adequately as other students. We want to include people on the evaluation team who know your child and we especially value your input.

An initial task of the section 504 evaluation team is to determine whether your child may have a disability that makes him or her eligible for protection under Section 504 of the Rehabilitation Act of 1973. Parents and student have specific rights under Section 504 which are summarized below:

- Participation of your child in school district programs and activities, including extracurricular programs and activities, to the maximum extent appropriate, free of discrimination based upon the student’s disability and meeting the students’ needs as adequately as the needs of other students are met;
- Receipt of free educational services to the extent they are provided to students without disabilities;
- Receipt of information about your child and your child’s educational programs and activities in your native language;
- Notice of identification of your child as having a qualifying disability for which accommodations may need to be made and notice prior to evaluation and placement of your child and right to periodically request re-evaluation of your child;
- Inspect and review your child’s educational record including a right to copy the records for a reasonable fee; you also have a right to ask the school district to amend your child’s educational records if you feel the information in the records is misleading or inaccurate; should the school district refuse to amend the records, you have a right to a hearing and to place an explanatory letter in your child’s file explaining why you feel the records are misleading or inaccurate;

A hearing before an impartial hearing officer if you disagree with your child’s evaluation or placement; you have a right to counsel at the hearing and have the decision of the impartial hearing officer reviewed

Please provide your consent for us to accomplish this evaluation by indicating your decision and providing your signature (below) and returning the bottom half of this form to:

Section 504 Liaison or appointee

Building

Phone Number

.....
PARENT CONSENT

Student’s Name

Date

- _____ Yes, I consent to the proposed screening/evaluation
- _____ No, I do not consent to the proposed screening/evaluation

Parent Signature

CONSENT TO RELEASE/OBTAIN INFORMATION

I authorize the Pleasant Valley Community School District (including the Mississippi Bend Area Education Agency staff assigned to Pleasant Valley Schools) to release and obtain from

_____ information regarding
(Agency, School or Individual)

_____. This information
(Name of Student) (Date of Birth)

will include any available test results (medical, psychological or academic), interview and on-going counseling assessments, recommendations for treatment any other information which will enable Pleasant Valley Schools to provide appropriate services.

This release may be revoked at any time and will terminate automatically in one year.

Signature of Parent/Guardian or Student if 18 or over

(Date)

In addition to the above granted permission, specific authorization is required for information protected by state or federal law.

I specifically authorize the release of data relating to:

- 1. Substance Abuse (alcohol/drug abuse) Signature: _____ Date: _____
- 2. Mental Health Signature: _____ Date: _____
- 3. HIV-Related Information (AIDS related testing) Signature: _____ Date: _____

SECTION 504 ELIGIBILITY DETERMINATION

Eligibility Meeting Date: _____ **Student Name:** _____
DOB: _____ **Gender:** _____ **Grade:** _____ **School:** _____
Parent/Guardian _____

Evaluation Information Considered and Impact of Disability on Major Life Activity

| Physical or Mental Impairment | Major Life Activity Impacted | Data Considered (list date created, source and attach) | Level of limitation (NA, mild moderate, substantial) |
|-------------------------------|------------------------------|--|--|
| | | | |
| | | | |

Actions to be Taken:

- The student has a physical or mental impairment that significantly impacts a major life activity
- A Section 504 Accommodation Plan will be written
 - A Section 504 Accommodation Plan is not needed at this time
- The student does not have a physical or mental disability that significantly limits one or more major life activities.
- No further action is needed at this time.
 - A individual health plan will address the student's need for health services.
- The team recommends in addition to a Section 504 Plan that further evaluation for possible IDEA eligibility be pursued.

Eligibility Determination Team Members

| Name | Role or Title |
|------|---------------|
| | |
| | |
| | |
| | |

SECTION 504 ACCOMMODATION PLAN

Date of Eligibility Determination _____ Date Last Reviewed _____

Student Name _____ DOB _____ Building _____ Grade _____

Parent (Guardian) Name _____ Plan Facilitator _____

Areas of Strength _____

Describe Areas of Concern Based on Eligibility Determination _____

Parent (Guardian)

Classroom Teacher

Expert Reviewer in Area of Disability

Administrator/Designee

Member/Position

Member/Position

| Areas of Difficulty | Accommodations | Person Responsible | Progress at Date of Review |
|---------------------|----------------|--------------------|----------------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

SECTION 504 SAMPLE ACCOMMODATION PLAN

Date Written _____ Date Last Reviewed _____

Student Name Jon Cryert DOB 7/26/2001 Building Chalmers Elementary Grade 4Parent (Guardian) Name Julie and Patrick Cryert Plan Facilitator Mr. BysonAreas of Strength Jon is a very social student. He has excellent athletic skills. Jon is a people-pleaser. He enjoys projects. He understands instructions best when presented in brief written form in a 'list'.Describe Areas of Concern Based on Eligibility Determination Jon often speaks out in class and can be disruptive. He becomes agitated in testing situations and is frequently failing to complete or hand in his homework assignments. His handwriting is often illegible.Date of Eligibility Determination 3/20/2000 and Team Members:

| | | |
|--|---------------------------------------|---|
| <u>Julie and Patrick Cryert</u> Parent (Guardian) | <u>Mr. Ryson</u> Classroom Teacher | <u>Ms. Hubert, School Psychologist</u> Expert Reviewer in Area of Disability |
|--|---------------------------------------|---|

| | | |
|---|--|--|
| <u>Ms. Wilson</u> Administrator/Designee | <u>Mr. Johnson Guidance</u> Member, /Position | <u>Ms. Snow, School Nurse</u> Member/Position |
|---|--|--|

| Areas of Difficulty | Accommodations | Person Responsible | Progress Monitored at Date of Review |
|--|--|-------------------------------|--------------------------------------|
| Jon has difficulty completing classroom work within the allotted time. | Jon's assignment will be broken up into smaller units and checked off as they are completed. | Classroom teacher | |
| Jon has difficulty with speaking out impulsively. | He will use self-monitoring cards on his desk to cue and record speaking out with permission and attention to task. Counselor will work with Jon on how to use the self-cueing technique and will help him chart his progress. | School psychologist & teacher | |

SECTION 504 SAMPLE ACCOMMODATION PLAN

| | | | |
|--|--|--|--|
| Jon becomes frustrated while reading test questions and has poor handwriting skills. | Tests will be read to Jon and he will be allowed to respond by using the computer or tape recorder. Daily work will not be graded down due to poor handwriting. For longer assignments, he may use the computer, both in the classroom and for homework. | Classroom teacher | |
| Failure to complete and hand in assignments. | A daily assignment organizer will be used at home and at school. Classroom teacher will meet with Jon daily to prioritize work. The assignment sheet will be signed at the end of the day at school and sent home to be shared with and signed by parents. | Classroom teacher, counselor and parents | |
| Medication has recently been changed and could have side effects, as well as dosage will need to be monitored. | A release of information has been signed to allow the school nurse to be able to communicate with Dr. Pullman's nurse. Summaries of behavior and work completion will be shared with the treating physician and the parents. School nurse will share the possible side-effects of the medication with those in the school who need to know (classroom teachers, playground supervisor, P.E. teacher, bus driver, guidance counselor) | School nurse | |

SECTION 504 SAMPLE ACCOMMODATION PLAN

Date Written 2/26/2000 Date Last Reviewed _____

Student Name Catelyn Bowman DOB 3/16/1997 Building West Creek Elementary Grade 7

Parent (Guardian) Name Caroline Rands & Jake Bowman Plan Facilitator Mrs. Gates

Areas of Strength Catelyn has good motor skills. She enjoys singing and is in choir. She enjoys art class.

Describe Areas of Concern Based on Eligibility Determination Catelyn demonstrates difficulty with social skills and is usually withdrawn around peers. She has difficulty coming to class organized and does not complete work consistently in any class but art.

Date of Eligibility Determination 2/26/2000 and Team Members:

| | | |
|---|---|--|
| <u>Caroline Rands</u> Parent (Guardian) | <u>Ms. Snowden</u> Classroom Teacher | <u>John Creson, School Psychologist</u> Expert Reviewer in Area of Disability |
| <u>Ms. Joan Brandon</u> Administrator/Designee | <u>Mrs. Gates, Counselor</u> Member/Position | <u>Mary Wilson, Art</u> Member/Position |

| Areas of Difficulty | Accommodations | Person Responsible | Progress Monitored at Date of Review |
|--|--|--------------------------------|--------------------------------------|
| Catelyn often loses textbooks and comes to class unprepared. She becomes overwhelmed easily. | Catelyn's locker will be moved to right outside her homeroom. Counselor and homeroom teacher will design a checklist for what needs to go to each class and reinforce its use by first daily, and then, weekly meetings. | Homeroom teacher and counselor | |

SECTION 504 SAMPLE ACCOMMODATION PLAN

| | | | |
|--|--|---|--|
| <p>Catelyn has difficulty focusing on one task and often never even starts an assignment, but draws on her papers.</p> | <p>Catelyn will be visually cued to begin work after an assignment has been given. Instructors will check in with Catelyn within 5 minutes of giving an assignment to see if she can verbally explain what needs to be done and to show she has started work. They will sign off on her assignment completion sheet. This will go home daily. A second set of textbooks will be kept at home. Catelyn will go daily to the STARS study hall (study skills, social skills and peer tutoring), run by the At-Risk Coordinator. She will be assigned bonus points for not drawing during homework time. She may redeem these by time in the art room to draw.</p> | <p>All instructors, At-Risk coordinator, art teacher (Technical Support provided by School Psychologist and BAT Team members)</p> | |
| <p>Catelyn's medication has recently been changed, and will need to be monitored closely.</p> | <p>School nurse has a Release of Information signed to be able to communicate with her physician about medication and share school progress, as well as be able to share with any staff who need to know about medication side effects.</p> | <p>School Nurse</p> | |
| <p>Catelyn demonstrates poor eye contact, muffled speech and social withdrawal from most peers.</p> | <p>Catelyn will participate in the Circle of Friends group after school with the At-Risk Coordinator twice a month.</p> | <p>At-Risk coordinator</p> | |

LETTER TO EMPLOYEES WORKING WITH SECTION 504 STUDENTS

Date: _____

Dear _____,

Attached you will find classroom modification to be implemented as a result of the Section 504 Committee finding regarding the following student: _____.

It is important that these modifications be implemented in every classroom so that we are in compliance with Section 504, a federal law which protects the rights of student with disabilities.

Failure to comply with the law regarding classroom accommodations can result in an investigation and ruling by the U.S. Office of Civil rights. Such a ruling can result in loss of all district federal funds as well as personal civil rights suits against district employees who fail to comply with the law.

Confidentiality and sensitivity dictate the disability and the accommodations be discussed and implemented privately between employee and student without making others in the classroom aware of either the disability or accommodations. In some instances it will be impossible for others in the room not to be aware of certain modifications. However, please handle as discreetly as possible to protect the student's right to confidentiality.

Building 504 Liaison
Attachment: Section 504 Accommodation Plan

GLOSSARY OF TERMS

Accommodations - Adjustments or modifications made by classroom teacher(s) and other employees to enable the students to benefit from their educational program. In some cases a plan should be developed outlining services and/or accommodations.

Americans with Disabilities Act (ADA) - prohibits discrimination on the basis of disability in employment, public services and transportation, public accommodations and telecommunications. The ADA, which applies to nearly all entities regardless of whether they receive federal funding, expanded the mandate of non-discrimination on the basis of disability established under § 504.

ADA Accessibility Guidelines - The ADA Accessibility Guidelines (ADAAG) are the architectural standards issued by the Access Board to implement the accessibility requirements of the ADA. To meet these requirements, private entities must use the ADAAG when designing, constructing, and altering buildings. Public entities have the choice of using the ADAAG or the Uniform Federal Accessibility Standards, which are the standards for § 504 compliance.

Affirmative Action - This concept involves a commitment to positive action to accomplish the purposes of a program. It may involve goals or timetables and specifically outlined steps that will be pursued to make certain that objectives are attained. Section 504 does not mandate affirmative action for persons with disabilities. Rather, § 504 requires that federal fund recipients ensure non-discrimination.

Barrier-Free Environment - An environment that contains no obstacles to accessibility and usability by persons with disabilities. Section 504, which emphasizes the concept of program accessibility, does not mandate a barrier-free environment in existing facilities. Barriers may exist under § 504 as long as they do not infringe on program accessibility. However, new construction and alterations by federal funds recipients must feature a barrier-free environment.

Building Level Team - A group of employees convened to assist and support classroom teachers in addressing individual learning needs of their students. The BAT will be utilized to gather, review, and provide evaluative procedures. Additional persons (i.e. school nurse, school psychologists, consultants, social worker, and teachers with specialized training) may be used on an ad hoc basis. At least one person involved in the case must be knowledgeable about the referral concern.

Contagious Diseases - Contagious diseases, such as tuberculosis and AIDS, are considered disabilities under § 504 and the ADA. People with contagious diseases are protected by § 504 against discrimination, provided they can perform their jobs or do not pose a threat to the health or safety of others. Congress amended § 504 to reflect this when it passed the Civil Rights Restoration Act.

Department of Justice - coordinates government-wide enforcement of § 504 regulations. It received lead agency authority in 1980 under Executive Order 12250, transferring that role from the Department of Health and Human Services (HHS). In assuming its lead agency responsibility, Justice reaffirmed the use of HHS's original regulations for, enforcement.

Equal Employment Opportunity Commission - the U.S. Equal Employment Opportunity Commission (EEOC) enforces the nondiscrimination requirements in Title I (employment) of the ADA and Title VII.

GLOSSARY OF TERMS

Equal Opportunity - Equal opportunity for qualified persons with disabilities is an objective of § 504. This goal translates into the achievement of accessibility, the provision of benefits, services and aids that are equally effective for persons with and without disabilities, and programs and activities that are otherwise free from discrimination based on disability.

Evaluation - Evaluation information from a variety of sources should be considered. Much of the information may already be available in the student's record. Need for special education must be considered. While medical records can be provided by the parent and since the school district cannot require that a student be medicated, it is not mandated the school district gain doctor's input. It is an option for the parents to hire a physician in order to determine a medical condition (i.e. vision, ADD/ADHD, substance abuse, etc.). All information on medical conditions must be considered.

FAPE - Free and Appropriate Public Education.

Individuals with disabilities - any persons who: (1) have a physical or mental impairment that substantially limits one or more major life activities (i.e., caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working); (2) have a record of such an impairment (have a history of, or have been classified as having, a mental or physical impairment that substantially limits one or more major life activities); or (3) are regarded as having such an impairment. r

"Regarded as having such an impairment" may mean: (a) having a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (b) having a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such an impairment; or (c) having no physical or mental impairments, as this term is defined, but is treated by a recipient as having such an impairment.

Under (1) above, only physical or mental disabilities are included; environmental, cultural or economic disadvantages are not in themselves covered, nor are homosexuality, age or prison records. A person who has any of these characteristics and also has a physical or mental impairment - covered.

Individuals with Disabilities Education Act (IDEA) - Federal special education law and regulations. Amended the Education for All Handicapped Children Act (P.L. 94-142) (IDEA)

Major Life Activity - Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Non-discrimination - Non-discrimination is mandated by § 504, which states that "no otherwise qualified disabled individual... shall, solely by reason of disability," be subjected to discrimination in any program or activity conducted by a federal funds recipient. Under § 504, recipients must ensure non-discrimination through program accessibility, equal opportunity and full participation in programs, activities and services.

Office for Civil Rights - Federal Agency having three primary responsibilities: investigating complaints, conducting compliance reviews, and providing technical assistance. There are ten regional offices located throughout the United States. The regional office for Iowa is in Kansas City, Missouri. Region VII serves Iowa, Kansas, Kentucky, Missouri, and Nebraska. Office for Civil Rights, U.S. Department of Education, 10220 North Executive Hills Blvd., 8th Floor, Kansas City, MO 64153-1367.

GLOSSARY OF TERMS

Placement - includes any accommodation or service that has been determined necessary for students eligible under § 504.

Program accessibility - "Program accessibility" is perhaps the key term in § 504 because federal funds recipients must ensure their programs and activities are accessible to and usable by persons with disabilities. Program accessibility is a flexible principle allowing recipients to comply based on individual responses to their existing conditions and the needs of their participants with disabilities. In many instances, programs and activities may be made accessible through slight modifications and adjustments in procedures, practices and policies. In others, building renovation or construction may be required. But structural change is required only if program accessibility cannot be achieved effectively through other means.

Section 504 - The part of the Rehabilitation Act of 1973 that guarantees specific rights in federally funded programs and activities to people who qualify as persons with disabilities. Section 504 states: "No otherwise qualified handicapped individual in the United States ...shall, solely by reason of his handicap be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

Section 504 Coordinator - School districts employing 15 or more persons must assign a person to coordinate compliance with § 504 regulations. It is recommended that all school districts appoint a § 504 Coordinator. The same individual could serve as the ADA Coordinator, equity coordinator or compliance officer.

Self-Evaluation - Section 504 requires that federal fund recipients evaluate their programs, physical accessibility, and employment practices to determine the extent to which programs and activities require modification to ensure full participation by students with disabilities. These evaluations should be updated frequently.

Transition - If a recipient determines that structural modifications are necessary to meet § 504 program accessibility requirements, the school must develop a plan specifying the steps necessary to complete such changes and the time frame for completion. The document containing these steps and a recipients schedule for making structural changes is termed "transition plan." This Transition Plan should not be confused with a "transition plan" under the IDEA which outlines an individual student's transition goals and objectives in the IEP.

Uniform Federal Accessibility Standards (UFAS) - the standards the federal government uses to meet § 504's accessibility requirements for the design, construction and alteration of buildings. Federal funds recipients are considered to be in compliance with § 504 if they follow UFAS, but only federal agencies are required to use them. Recipients may also satisfy § 504 by following state, local or other codes.

Viewed in its entirety - Recipients must ensure that, when viewed in its entirety, a program or activity is accessible for persons with disabilities. Not every component of a program or activity, therefore, must be accessible for program accessibility to be achieved. For example, if a school offers several sections of a particular course, not all sections of the course need be made accessible to persons with disabilities as long as enough sections are accessible to permit full participation by persons with disabilities.

COMMONLY ASKED QUESTIONS ABOUT SECTION 504

How does the team decide when a problem is interfering with a student's learning to the degree that a student should be considered eligible for § 504 services?

The team must carefully review the student's learning, performance and environment. For example, although a student may have attention deficit problems, the student would not be considered an individual with a qualifying disability if the typical accommodations and assistance provided by teachers are sufficient to allow the student to participate in normal learning experiences. A student whose problems are so severe to prevent participation in normal learning experiences, despite application of typical accommodations and assistance, may be eligible for § 504 services.

What do we do if our school does not have a problem solving team?

While problem solving teams are not required, they are strongly recommended. Schools without a trained problem solving team should develop one, and the team should receive the appropriate training. The team should utilize ad hoc support team members that can convene on an "as needed" basis for the purpose of deciding a student's eligibility for § 504 services. Members of an ad hoc team could include, but need not be limited to: school psychologist, social worker, consultant, counselor, administrator, other teachers, parents and other school or community professionals.

When a parent produces documentation that a physician or psychologist considers the student to be ADD, is the team obligated to find the student eligible for § 504 services?

ADD is not a specific disability under either § 504 or the IDEA. Therefore, accommodations and services are not automatic. Documentation of a student being diagnosed ADD is a "red flag" that should initiate an evaluation. When determining whether a student diagnosed with ADD has a disability qualifying for either § 504 services or the IDEA, the school district needs to follow the evaluation process outlined by both laws. It is important to remember, it is the school district, not a physician, psychologist or parent, that makes the determination whether a student is eligible for services and what type of services.

Are we limited to the accommodations listed on the § 504 Accommodations Plan?

Student accommodations are not confined to those listed on the Accommodation Plan. Other creative ideas may be generated at a problem solving team meeting and documented. The Accommodation Plan should have an established review cycle. The law is silent as to how often a plan should be reviewed, but the common practice is to review it every three years or more often if needed.

How is the plan monitored?

The student's accommodation plan may be monitored periodically by the school district's § 504 Coordinator. Teachers assist in evaluating the effectiveness of the accommodations by collecting samples of the student's daily work, behavior charts, parent reports, behavioral observations, grades, etc.

What happens if the team and parents cannot agree on the plan?

The approach of choice to resolving disputes of this nature is ongoing communication. Utilizing a clear problem solving process with parents, the § 504 Coordinator and the building principal present can resolve differences before they become problems. Parents should be provided with notice of their rights and the opportunity to review relevant records.

COMMONLY ASKED QUESTIONS ABOUT SECTION 504

Are ADD students served in special education programs?

Most ADD students can be educated in the general education program and will not need special education services. The accommodations ADD students generally need can be provided in the classroom with appropriate interventions.

Are we required to provide accommodations or special equipment recommended by a parent or an outside professional?

The problem solving team should consider any recommendations made by outside professionals. In the event that the problem solving team finds the recommendation to be unreasonable or inappropriate, that should be documented. The problem solving team could meet with the outside professional or parent to discuss alternative strategies for accommodating the student.

Are we required to re-evaluate students who qualify for § 504 services?

Eligible students are entitled have their accommodation plans periodically reviewed. Review is currently recommended every three years or more often if needed.

What if parents refuse to have their child being labeled as having a disability under § 504?

It is within the parent's right to refuse to have their child labeled as having a disability. However, the school district should document its effort to evaluate the student and the parent's refusal to participate or agree. If the school district is concerned that the student will not be benefiting from the educational program and wants to pursue the issue, it should contact its legal counsel for guidance.

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WEBSITES:

<http://www.nimh.nih.gov/index.shtml> - The National Institute of Mental Health provides information on symptoms, diagnosis, medication, treatments and resources, related to Attention Deficit/Hyperactivity Disorder. Other links related to legal rights and how to accommodate children in the classroom also are provided.

<http://www.naspweb.org> - This website is run by the National Association of School Psychologists. By clicking on "search" and typing "ADHD", information on recent articles from School Psychology Review and the Communique, NASP's position paper on Students with Attention Problems, and assessment and intervention appears.

<http://www.adaptenv.org> - The ADA National Access for Public Schools project has an active Question and Answers section for queries about the Americans with Disabilities Act and Public Schools. <http://www.ada.gov/cguide.htm>

PERMISSION:

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